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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In the Matter of
Interconnection and Resale Obligations
Pertaining to
Commercial Mobile Radio Services

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JUN 14 1995

FEDERAL COMMUNICATIONS COMMISSION
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To: The Federal Communications Commission

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COMMENTS OF
SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

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SUMMARY

The Commission correctly concludes that there is no need to promulgate specific regulations or mandates on CMRS - CMRS interconnection. CMRS - CMRS interconnection is not warranted nor necessary for a CMRS provider to reach all other networks. CMRS providers have several options to interconnect with the public switched network, including a right to interconnect with the local exchange carrier or carriers. The Commission thus correctly concludes that the decision of whether CMRS - CMRS interconnection is warranted is best left to the business judgment of the carriers themselves.

The Commission should preempt state imposed CMRS - CMRS interconnection. Allowing states to mandate CMRS - CMRS interconnection would thwart the growth of CMRS services, would result in a patchwork of rules and regulations, and would put additional costs on CMRS providers. The Commission properly exercised its authority to preempt state regulation over the types of and rights to CMRS interconnection with local exchange carriers and should do the same for CMRS - CMRS interconnection.

The Commission is also correct in deciding not to promulgate rules or technologies for roaming. The cellular industry has demonstrated that because of the economic incentives involved with roaming there is no need for Commission rulemakings and mandated technical compatibility standards for roaming. Direct interconnection and access to proprietary data bases are not required today for cellular roaming and should not be mandated for

CMRS roaming.

The Commission is correct in extending resale obligations to all CMRS providers. SBMS continues to support an exemption from the resale obligations whereby a CMRS provider would not be required to allow resale by a facilities based competitor. If the Commission however decides to allow resale by a facilities based competitor, such resale should be limited to five years -- the same period allowed for facilities based resale by cellular carriers.

The Commission should not require number transportability as a part of the CMRS resale policy. Wireless number portability would be directly contrary to the public interest as it would eliminate the current efficient roaming network that exists for cellular and would force great expense upon the wireless industry which in turn would pass the cost of service to the consumer.

SBMS also supports the Commissions rejection of the "reseller switch proposal".

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CC Docket No. 94-54

SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

SBMS agrees with and strongly supports the Commission's general policy, reflected in the Second NPRM, of relying on competitive market forces to determine CMRS-CMRS interconnection rather than promulgating specific CMRS-CMRS interconnection regulations and mandates. Likewise, the Commission is correct in refraining from promulgating specific CMRS "roaming" regulations as the market is the most efficient determinant of what constitutes reasonable roaming arrangements. SBMS also supports the

¹In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC. Docket No. 94-54, Second Notice of Proposed Rulemaking (Released April 20, 1995). ("Second NPRM").

Commission's conclusion that imposing a resale obligation on most CMRS providers is in the public interest. SBMS however continues to believe that the resale obligation should not require CMRS providers to allow resale by a facilities based competitor,² but supports the view that if such resale is allowed it should be limited to five years after the award of the license as contemplated by the cellular rules.

I. CMRS-CMRS INTERCONNECT

A. The Commission's Decision that it is Premature to Propose or Adopt Rules Regarding CMRS to CMRS Interconnection is Correct.

The Commission correctly concludes that there is no need to promulgate specific regulations or mandates on CMRS-CMRS interconnection.³ As the majority of the parties noted in their comments and replies to the Notice of Inquiry⁴ and as the Commission acknowledges, it is premature at this stage of the development of the CMRS industry for the Commission to impose a general interconnection obligation on all CMRS providers.⁵ As noted in the Second NPRM, the responses to the NOI indicate that the CMRS industry is going through "rapid change in terms of

²See, Comments of Southwestern Bell Corporation, CC Docket No. 90-54 Filed September 12, 1994, at pp. 57-60. ("SBC Initial Comments").

³Second NPRM, paras. 2, 29, 30, 31,

⁴In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, RM 8012, Notice of Proposed Rulemaking and Notice of Inquiry (Released July 1, 1994). ("NPRM/NOI").

⁵Second NPRM, para. 29.

technologies and facilities employed" and it is "uncertain" how some of the various new services will operate.⁶

Given the evolving nature of CMRS service and technology, along with the evolving nature of the participants, any attempted mandate and associated rulemaking would be time-consuming and costly and is likely to fail due to the complexity and the constant evolution of the industry. For example, would new standards be required to be developed to allow a PCS provider to deliver traffic directly to a cellular provider? Currently, there is no protocol to link an IS-41 switch to a GSM switch. Who would be responsible for developing the interface? Who would be responsible for any other translation interfaces? Would mandatory interconnection be required at all points in a network? For example, in Chicago, SBMS' system has seven mobile telephone switching offices (MTSO) located in five different buildings. Would a CMRS provider have to connect to all five locations or could it choose one location and require SBMS to carry the traffic to the other MTSO's? Who pays the cost of the additional ports and trunks that may be required? More importantly, is it required to complete calls? The answer to this question of course is NO. As long as both CMRS providers are interconnected to the public switched telephone network, then customers of both CMRS providers may compete calls to each other. The complexity of the questions and the evolving nature of the industry illustrate that such questions should be left to market forces. All of these issues are better dealt with by carrier to

⁶Id.

carrier negotiation, if each carrier decides that interconnection is in its best interest.

B. Mandatory CMRS-CMRS Interconnection is Neither Necessary Nor Warranted.

Even as the CMRS industry develops and moves out of a state of flux, the one certainty is that any CMRS provider will be able to reach any other public network, CMRS or landline, through the local exchange carrier landline network.⁷ The Commission seeks comment on the "relevant product market" definition which would be most useful to making a decision regarding CMRS interconnection.⁸ The only useful definition is the entire local exchange, both landline and wireless, including all alternate local exchange providers, competitive access providers and any other option the CMRS provider may have for connecting its network to the public switched network. Prior to ordering a CMRS provider to interconnect directly with another CMRS provider against its will, the Commission must examine whether such interconnection is necessary and in the public interest.⁹ The key element of the inquiry should be what other options does the CMRS provider have if such direct interconnection is denied. A review of the options a CMRS provider has indicates that CMRS-CMRS interconnection is simply not warranted nor necessary for a CMRS provider to reach all other networks.

⁷Second NPRM, para. 30.

⁸Second NPRM, para. 33.

⁹Second NPRM, para. 41.

In most places the CMRS provider is not limited to a single local exchange carrier for interconnecting with the public switched network. For example, a study of the availability of tandem facilities for cellular carriers to connect to the public switched network in Kansas, Missouri, Oklahoma and Texas indicates that there are technical and economically feasible alternatives available in most Metropolitan Statistical Areas (MSA) where local exchanges are operated by Southwestern Bell Telephone Company.¹⁰ The results of this study are contained in Attachment 1. Since cellular systems often encompass the territory of one or more LECs and traffic can be delivered from the MTSO to any cell site for hand-off to a particular carrier, cellular carriers today can choose between LECs and even bypass a particular LEC entirely if they decide it is more economical to do so.¹¹ Similarly, the existence of competitive access providers provides an alternate means for CMRS providers to get traffic to an interexchange carrier.¹² An example of presence of CAPS in various cellular markets in Southwestern Bell Telephone Company service areas is set out in Attachment 3, along with maps of the existence of multiple local exchange carriers in MSAs. In areas where local exchange

¹⁰See, Affidavit of Gary L. Mann, Attorney at Law, Exhibit 1, Attachment 1.

¹¹See, Affidavit of Dane Ershen, Southwestern Bell Mobile Systems, Inc., Vice-President Network Operations, Chicago, Illinois. Attached as Attachment 2. See, Affidavit of Gilbert Orozco, Southwestern Bell Telephone Company, Director Competitive Analysis/Sales Support. Attachment 3.

¹²See, Orozco Affidavit, Attachment 3.

competition exists, alternate local exchange providers provide a similar alternative for access to the local exchange network. Thus, as explained in the attached affidavit of SBMS' Vice President--Network Operations in Chicago, a CMRS provider has several options of where to drop its traffic off to an IXC or the public switched network and thus may totally by-pass having to directly interconnect with a particular LEC.¹³ As noted on Attachment 6, which is a diagram of SBMS' network in Dallas, CMRS providers can and will take advantage of these various options.

Thus, in response to the Commission's question, ordering mandatory interconnection between CMRS providers is not particularly important to the economic viability of CMRS providers, access to the public switched network is what is necessary and several options exist.¹⁴ What is also important to the economic viability of CMRS providers is that they be allowed to design their operations in a manner that they feel best suits their business needs. As Attachments 4 and 5 depict, as the number of CMRS providers increase a mandatory CMRS-CMRS interconnection rule would result in complex and inefficient network arrangements. Where CMRS-CMRS interconnection makes economic sense it will be implemented without regulatory mandate. For example, SBMS and MetroCel, the two cellular carriers in Dallas have engaged in negotiations regarding establishing a direct connection between

¹³See, Ershen Affidavit, Attachment 2.

¹⁴Second NPRM, para. 32.

their Dallas mobile telephone switching offices.¹⁵ As CMRS-CMRS traffic increases it may make economic sense for CMRS providers to interconnect in a particular market, however it is better for that decision to be made by each CMRS carrier based on the conditions in that market and its feeling for what is best from its economic point of view.

The Commission questions whether CMRS-CMRS interconnection is particularly important to the advancement of Congressional and Commission Public policy goals "with respect to enhancing competition, promoting infrastructure investment and facilitating access to the Nation's telecommunications networks".¹⁶ The answer is a resounding NO. Access to networks is already guaranteed by the public switched network. Congressional and Commission public policy goals are not advanced by a mandatory interconnection rule that results in carriers being forced against their will to engage in inefficient, unnecessary and uneconomical investments. The type of infrastructure outlined on Exhibit 5 is unneeded--dollars for infrastructure investment are better spent on deploying new technologies or improving existing service not on such unwanted redundancy between carriers. Again if the CMRS providers see a economic advantage to interconnect they will, but it should be each provider's choice. As the Commission correctly

¹⁵After further study it was decided that at the current volume of calls and LEC switched access charges, the savings which might have been recognized were too small to justify the direct connect and the accompanying trunk charges and administrative expenses.

¹⁶Second NPRM, para. 33.

observes "we are confident that the decision of interconnection "where warranted" is best left to the business judgment of the carriers themselves".¹⁷

C. The Commission is Correct in Relying on The Section 208 Complaint Process for Dealing with Claims of Anticompetitive Behavior in the Denial of Interconnection Requests Rather than Instituting an Notice of Rulemaking.

The Commission notes that under the Communications Act, as amended by the Omnibus Budget Reconciliation Act of 1993, they are "required to respond to requests for interconnection with proceedings to determine whether it is necessary or desirable in the public interest to order interconnection in particular cases".¹⁸ The Commission wisely chooses to carry out this requirement through the Section 208 complaint process for CMRS-CMRS interconnection.¹⁹ The Commission concludes that the central legal issue in claims of unreasonable denial of a request for interconnection is whether the public interest would be served by the imposition of interconnection obligations on CMRS providers.²⁰ The Commission also concludes that a market power analysis is the basic analysis to be used in determining whether to impose specific interconnection requirements, along with an assessment of other public policy goals and the facts of the particular case.²¹

¹⁷Second NPRM, para. 37.

¹⁸Second NPRM, para. 39.

¹⁹Second NPRM, para. 40.

²⁰Second NPRM, para. 41.

²¹Second NPRM, paras. 41-42.

Given these Commission conclusions, the Section 208 complaint process is the only vehicle to handle questions of CMRS-CMRS interconnection. As the Commission notes, the development of the CMRS industry is still evolving. The CMRS market is more competitive and varies from location to location--the only similar factor between markets being that each CMRS provider is guaranteed interconnection through the local exchange carrier. Thus, the market power analysis for determining whether CMRS-CMRS interconnection should be implemented is not one that can be subject to a "general" rulemaking. Quite simply CMRS providers never have and do not currently control bottleneck facilities.²² As Commissioner Barrett indicated "where there is no issue of interconnection to bottleneck facilities" there should be a higher burden to meet to justify such regulatory requirements between CMRS provider".²³ Likewise, as Commissioner Quello notes "regulatory obligations created to address interconnection among common carriers controlling bottleneck facilities should NOT be grafted onto the mobile communications industries, which are competitive, which soon will become even more so, and use differing and

²²Indeed, in light of the fact that CMRS providers' networks often include as noted above, more than one LEC and the LECs interconnect with each other, any claim that a CMRS provider somehow controls bottleneck facilities is spurious. A simple review of the SBMS Dallas Network Design (Attachment 6), Ershen's Affidavit (Attachment 2) and the Mann Affidavit (Attachment 1) indicates that a CMRS provider has numerous options for interconnections with the public switched network.

²³See Separate Statement of Commissioner Andrew C. Barrett, NPRM/NOI.

developing technologies".²⁴

The Section 208 complaint process is appropriate because it will allow the Commission to look at the specific facts underlying a disagreement on whether to interconnect, including an analysis of the specific market to determine what other options are available to the CMRS provider requesting interconnection. Further, it will give the Commission an opportunity, prior to forcing a CMRS provider to interconnect against the such provider's better business judgment, to judge whether the requested interconnection is meant to actually serve the "public interest" or merely the economic interest of the CMRS provider making the request.

The Commission also seeks comment on the role of LEC investment in a CMRS provider in determining the reasonableness of a denial of interconnection. As a CMRS provider operating in areas where Southwestern Bell Telephone Company is the local exchange carrier and in areas where we compete against the cellular affiliate of the local exchange carrier,²⁵ including our largest market, Chicago, SBMS strongly believes that such circumstances should not be given any greater weight or presumption. Rather the Commission needs to look at the entire market and all options available to the complaining CMRS provider. As explained in the attached affidavits of Gary Mann and Gilbert Orozco, a review of

²⁴See, Separate Statement of James H. Quello, Second NPRM.

²⁵For example, SBMS has been able to obtain satisfactory interconnection rates with Illinois Bell, C & P and New England Bell.

the MSAs in which SBMS operates and Southwestern Bell Telephone Company is a local exchange carrier, indicates that most of the MSAs give the CMRS carrier more than one option of local exchange carrier for interconnection.²⁶ For example, as described in Mr. Ershen's affidavit, in Chicago SBMS currently uses its own cell sites as an alternative access method of routing various types of cellular traffic from Chicago to GTE's facilities in the Gary-Hammond MSA, thus by-passing Illinois Bell facilities.²⁷ Likewise, as indicated on Attachment 6, the SBMS Dallas Network diagram, CMRS providers may choose various options, including interconnecting with multiple LECs in their licensed area. Thus, a CMRS carrier has various options available to it and the fact that there may be an affiliation between a CMRS provider and one of the local exchange carriers in the area should not create any adverse inference or presumption of improper motive. The complaint should be decided based on the facts as presented.

D. The Commission Should Preempt State Imposed CMRS-CMRS Interconnection.

The Commission may exercise preemption authority when interstate and intrastate services are inseparable and the state regulations would thwart or impede the Commission's public policies.²⁸ The Commission has noted that they may preempt

²⁶Mann Affidavit, Attachment 1; Orozco Affidavit, Attachment 3.

²⁷Ershen Affidavit, Attachment 2, para. 7.

²⁸Louisiana Public Service Commission v. Federal Communications Commission, 476 U.S. 355, 375 n. 4 (1986).

intrastate regulation when 1) the matter to be regulated has both interstate and intrastate aspects; 2) preemption is necessary to protect a valid federal regulatory objective; and 3) state regulation would "negate" the exercise of the Commission's authority because regulation of the interstate aspects of the matter cannot be severed from regulation of the intrastate aspects.²⁹

CMRS-CMRS interconnection has intrastate and interstate aspects which are inseparable. Allowing states to mandate CMRS-CMRS interconnection would result in the inefficient and uneconomical duplication of facilities indicated on Attachment 5. Such state regulation would also place additional costs on CMRS providers and result in a patchwork of rules and regulations for CMRS providers to comply with. Thus, state regulation of CMRS-CMRS interconnection would be contrary to the national goal of creating "rapid and efficient nationwide and worldwide wire and radio communication service".³⁰ The Commission has previously identified the introduction of new technologies, the modernization of the nation's infrastructure and the offering of new services to the public as objectives essential to reaching such goals.³¹ State regulation of CMRS-CMRS interconnection would thwart these goals

²⁹In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, IAD File No. 94-102, Declaratory Ruling and Order, para. 11 (released January 23, 1995). citing Public Service Commission of Maryland v. FCC, 909 F.2d 1510, 1515 (D.C. Cir. 1990).

³⁰47 U.S.C. 151.

³¹708 NPA Order, para. 26.

and objectives.

The Commission properly exercised such authority to preempt state regulation over the types of and rights to CMRS interconnection with local exchange carriers.³² The same authority supports preemption of state regulation of the types and rights to CMRS interconnection with other CMRS providers, including mandating CMRS-CMRS interconnection.

II. ROAMING

A. Roaming Arrangements Should be Left to the Industry and the Market--Not Regulatory Mandates.

The Commission is correct in deciding not to promulgate rules or technologies for roaming.³³ As with cellular, CMRS providers have an economic incentive to sell service to roamers visiting their markets and to provide the ability to roam to their customers. New CMRS providers and existing CMRS providers both have an economic incentive to establish roaming arrangements.

The cellular industry has demonstrated that because of the economic incentives there is no need for Commission rulemakings and mandated technical compatibility standards for roaming. Roaming today in the cellular industry thrives without extensive

³²See, Regulatory Treatment of Mobile Services, Gen. Docket No. 93-252, paras. 228-29, Second Report & Order (March 7, 1994); In the Matter of the Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 2 FCC Rcd 2910, paras. 17-18, Declaratory Ruling (1987).

³³Second NPRM, paras 54, 58. Roaming describes the situation which occurs when the subscriber of one CMRS provider enters the service area of another CMRS provider with whom the subscriber has no preexisting service or financial relationship, and attempts either to continue an in-progress call, to receive an in-coming call or to place an out going call.

regulations about relationships between the parties, interconnection or access to proprietary data bases. The cellular experience has demonstrated that the best way to achieve nationwide roaming capabilities is through negotiated agreements and the establishment of standards through industry standards groups. Roaming in the cellular industry evolved quickly and efficiently through negotiated agreements and industry developed standards for the transmittal of information. A prime example is the development of IS-41 standards for communication between cellular systems.

The established standards for communication between cellular systems for roaming purposes already exist. New CMRS providers can simply build on the standards and structure which is already in place as a result of the cellular industry working together. A new market entrant should not be allowed to demand and receive access to databases merely because it does not want to design its network to interface established standards. Likewise, there is not a need for regulations regarding the relationship of the parties because such relationships are better governed by negotiated agreements.

In response to the Commission's request for additional information on how roaming works today in cellular, generally the carriers will enter into an Inter-carrier Roaming Agreement. This agreement provides the terms for provision of service, service areas, exchange and protection of information, billing, settlement and division of revenue. The settlement process for cellular roaming is generally handled through a clearinghouse (GTE TSI or

EDS PCD) utilizing standards established by the industry. The industry billing standards, titled Cellular Intercarrier Billing Exchange Records (CIBER), encompass message format edits, negative file guidelines and tape processing. CIBER allows for smooth processing of the roaming call records for settlement and liability determination.

The roaming process relies upon the NPA/NXX of the mobile identification number (i.e. the phone number)³⁴ and the system id or SID assigned by the FCC to the license holder of record and the BID, which is an extension of the SID, assigned by CIBERNET for billing purposes. The NPA/NXX are used for routing purposes, validation purpose and billing purpose. Network connectivity between roaming partners is currently handled in one of three ways, through SS-7 backbone using IS-41, through a direct Switch-to-Switch connection using IS-41 or via clearinghouse through an X.25 connection which may or may not include IS-41 messaging. The SID and BID are matched to the NPA/NXX of the mobile identification number (i.e. telephone number) for roamer validation, call delivery and billing purposes.

When roaming, a customer's telephone will emit the ten digit mobile identification number (telephone number), assigned by the carrier he has service with (HOME Carrier) and the unique electronic serial number of the phone. The carrier providing

³⁴A telephone number consists of three distinct elements under the North American Numbering Plan: 1) the 3 digit NPA or area code 2) the 3 digit NXX or central office code and 3) the remaining 4 digit line number or XXXX.

service on that frequency (Serving Carrier) will use the information for carrier validation purposes--to see if the Home Carrier has a valid roaming agreement with the Serving Carrier. The Serving Carrier will also check for validation of the customer with the Home Carrier either through the SS7 backbone, a clearinghouse, or in some cases via direct connect to the Home Carrier's switch. The type and amount of information sent will depend on the agreement of the parties, whether IS-41 messaging is used and the type of interconnection chosen by the carriers. With IS-41 messaging the registration process is instantaneous with the initial presence of a powered phone in the Serving Carrier's market. Validation can occur in various ways: some carriers routinely page all phones in the system at various time intervals, which page is transparent to the customer, other carriers wait until the first attempt for service, to validate. If IS-41 messaging is not used, then the method for validation and the type of information transferred will depend on the agreement of the parties. Whether calls are automatically delivered to the customer in the foreign system will depend on whether the customer has registered in the system. The type of registration necessary for automatic call delivery will depend on the Serving Carrier's system and the arrangements in place between the Serving Carrier and the Home Carrier. Call delivery can occur in various ways: automatically with IS-41; when the foreign system pages all phones for registration; on the first attempt for service; or it may require a positive act on the part of the customer such as dialing

a special code such as *18.

The Commission questions whether cross-service roaming, PCS to cellular, can be accomplished from a technical standpoint. Such roaming would require a dual mode phone. SBMS' understanding is that GSM technology being chosen by some PCS providers is not compatible with IS-41.

The Commission also notes that "subscriber database access appears to be a key feature of ubiquitous seamless roaming and seeks comment "on the type of access and data which CMRS providers and other common carriers need to support roaming service".³⁵ "Other common carriers" do not need any type of access or data to support roaming services--"other common carriers" are providing transport only and do not have a legitimate need for any information from a CMRS data base. The only party that would need information about the CMRS providers customers would be the roaming partner. Furthermore, actual direct access or interconnection to databases is not required by CMRS providers--what is required is that the roaming partner send the agreed upon information. Thus, the type of access a CMRS provider needs is no different than what a cellular carrier roaming partner today needs, and that information is provided via IS-41 standards and does not necessitate interconnection to databases. Rather, the roamer's home market responds to a request from the visited market and provides the information pursuant to the contractual agreement between the roaming partner. Confidentiality and proprietary

³⁵Second NPRM, para. 59.

concerns regarding the information provided are governed by the contract. Direct interconnection and access to proprietary databases are not required today for cellular roaming and should not be mandated by the Commission.

III. RESALE

A. The Commission Correctly Extends the Resale Obligation to all CMRS Providers.

The Commission states that resale obligations, currently applicable to cellular carriers, "should be extended to all CMRS providers, unless there is a showing that permitting resale would not be technically feasible or economically reasonable for a specific class of CMRS providers".³⁶ SBMS agrees with the Commission's conclusion. The Commission previously stated that a strong resale market helped foster competition in the cellular market.³⁷ Imposing resale obligations on all CMRS providers will likewise foster competition in all CMRS markets.

B. If the Commission Allows Resale by a Facilities Based Competitor, Such Resale Should be Limited to Five Years.

The Commission tentatively concludes that the ability of a new facilities based carrier to resell the service of a competing CMRS provider could "jump start" the entry of the provider into the market.³⁸ The Commission notes for example that a PCS provider may decide to resell cellular service thus allowing them to provide a

³⁶Second NPRM, para. 83.

³⁷NPRM/NOI, para. 138.

³⁸Second NPRM, para. 88.

customer base before completion of construction of their systems.³⁹ The Commission thus tentatively concludes that such resale should be allowed and invites comment on the period during which resale should be allowed.⁴⁰

SBMS continues to support an exemption from the resale obligations whereby a CMRS provider would not be required to allow resale by a facilities based competitor.⁴¹ New facility based CMRS providers need to be encouraged to develop and use the spectrum they have been allocated and build their systems, rather than piggy backing and relying on existing systems. As the Commission noted in determining that competitor based resale should not be allowed for cellular after the five year build out period, unrestricted competitor resale 1) inhibits facilities based competition by encouraging a competitor to rely on its competitors facilities 2) delays the implementation of new technologies and 3) creates the potential for collusion.⁴²

If the Commission decides to allow resale by a facilities based competitor, that resale should be limited to five years--the same period allowed for facilities based resale by cellular carriers. Five years would be an equitable balance between the

³⁹Id.

⁴⁰Second NPRM, paras. 89-92.

⁴¹See, SBC Initial Comments, pp. 57-60.

⁴²In the Matter of Petitions for Rulemaking Concerning Proposed Changes to the Commission's Cellular Resale Policies, CC Docket 91-33, Report and Order, 7 FCC Rcd 4006, paras. 15-16 (1992). (Cellular Resale Policy Order).

Commission's objective of "jump starting" PCS and the negative public policy impacts of unrestricted competitor noted by the Commission just three years ago in the Cellular Resale Policy Order.⁴³ In ruling that the resale obligation would not apply to facilities based cellular carriers after the five year fill in period the Commission noted that elimination of the obligation after five years from the license grant would promote the maximum amount of competition, encourage the build out of systems, encourage the fullest use of the radio spectrum and discourage a competitor from permanently relying on its competitors facilities.⁴⁴

C. The Commission Should Not Require Wireless Number Portability as a Means of Stimulating Resale.

The Commission requests comments on whether it should make number transportability requirements a part of the CMRS resale policy.⁴⁵ The cost and burden of number portability should not be forced upon the wireless industry without a clear showing that the it truly is in the public interest. SBMS believes that wireless number portability would be directly contrary to the public interest as it would eliminate the current efficient roaming network that exists, would force great expense upon the wireless industry which in turn would impact the cost of service to the consumer. The perceived benefit is that a customer could retain

⁴³Cellular Resale Policy Order, paras. 10-12, 15-16.

⁴⁴Cellular Resale Policy Order, paras. 10-12.

⁴⁵Second NPRM, para. 94.

the same wireless number when changing carriers. The cellular experience has shown, by an industry churn rate average of approximately 25% per year, that losing a phone number is not an obstacle to customers changing carriers. This is understandable given the fact that most cellular customers do not publish or advertise their mobile number as they do their landline number. As noted in the study included in SBC's Initial Comments in this proceeding, what is important to the wireless customer is price and coverage area⁴⁶--yet number portability would force expenses on wireless customers for a "privilege" that is not wanted.

The effect and cost of number portability for wireless is unknown and would need to be studied in-depth. For example, number portability for a cellular number would basically take roaming back to the drawing board as the existing system would become basically obsolete because of its heavy reliance on the NPA/NXX, and most importantly the NPA/NXX being assigned to a single cellular carrier. Cellular roaming works economically and efficiently because of the ability to rely on the NPA/NXX (being assigned to only one cellular provider) for validation, routing, billing and settlement. Likewise, Home Location Registers and Visited Location Registers would need to be modified as the database structure and memory utilization is not such that individual numbers can be "ported".

The technical issues involved in CMRS number portability are different than landline portability and would need to be

⁴⁶SBC Initial Comments, Tab 2.